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THE RIGHT TO INFORMATION AND THE RIGHT TO KNOWLEDGE IN A RISK SOCIETY

PRAWO DO INFORMACJI I PRAWO DO
WIEDZY W SPOŁECZEŃSTWIE RYZYKA



ABSTRACT

Purpose: presenting the author's reflections on the impact of knowledge and information on the ubiquitous sense of risk in contemporary society, and presenting the differences between the essence of the terms knowledge and information.

Methods: system analysis, analysis of the literature.

The subject Results: Verification of the assumption that a person can fully realize his subjectivity and agency through dialogue based on the exchange of information with other people has shown an area in need of redefinition, which may be particularly important for state bodies and educational institutions.

Description: The article consists of six segments. Each is designed to consistently introduce the reader to further aspects of the topic under discussion. The first two indicate the systemic perspective of human functioning in the world of rights and values. The third part of the article contains a catalog of subjectively relevant assumptions of the risk society theory. The next two chapters indicate the area of knowledge and information as moral values and categories protected by law. The final segment shows the realized dimension of this area in a society burdened with the problem of pervasive risk, and draws a conclusion from the content of the previous parts of the paper.

KEYWORDS: *information, right to knowledge, right to information, moral values, theory of risk society*

STRESZCZENIE

Cel: ukazanie autorskiej refleksji dotyczącej oddziaływania wiedzy i informacji na współcześnie wszechobecne poczucie ryzyka oraz przedstawienie różnic pomiędzy istotą terminów wiedza i informacja.

Metody: analiza systemowa, analiza literatury przedmiotu.

Wyniki: weryfikacja założenia, iż człowiek w pełni realizować swoją podmiotowość i sprawczość może za sprawą dialogu opierającego się na wymianie informacji z innymi osobami ukazała wymagający redefinicji obszar, który może być szczególnie ważny dla organów prawa i instytucji wychowawczych.

Omówienie: Artykuł składa się z sześciu segmentów. Każdy z nich ma za zadanie konsekwentnie wprowadzać czytelnika w kolejne aspekty omawianego tematu. W pierwszych dwóch wskazano systemową perspektywę funkcjonowania człowieka w świecie praw i wartości. Trzecia część artykułu zawiera katalog subiektywnie istotnych założeń teorii społeczeństwa ryzyka. W kolejnych dwóch rozdziałach wskazano obszar wiedzy i informacji jako wartości moralnych oraz kategorii chronionych prawem. W ostatnim segmencie ukazano realizowany wymiar tego obszaru w społeczeństwie obciążonym problemem wszechobecnego ryzyka oraz dokonano konkluzji wynikającej z treści poprzednich części opracowania.

SŁOWA KLUCZOWE: *informacja, prawo do wiedzy, prawo do informacji, wartości moralne, teoria społeczeństwa ryzyka*

INTRODUCTION

Uncertainty about tomorrow, a lack of financial security, and the feeling that time is constantly slipping away seem to be ubiquitous problems for modern humans. For about fifty years, representatives of the humanities and social sciences have been trying to explain the mechanisms that govern human attitudes. Social views and assumptions take various forms in this regard, ranging from accepting the feeling of threat that pervades almost all (or all) aspects of life to contesting human adaptation to a risky reality. This issue has often been raised by postmodernists (Zygmunt Bauman, Jean-François Lyotard, Jean Baudrillard, and Richard Rorty). Ulrich Beck's theory of risk society places particular emphasis on the aspect of false security. His observation of reality raises many questions, including whether knowledge really eliminates human anxiety. However, this reflection requires the operationalization of the concept of *knowledge*. In this study, through deductive reasoning, they were derived from the definition of a more or less specific set of information concerning a more or less specific aspect of the conceived object. The aim of the article isn't to present a solution to the problem of getting rid of anxiety caused by risk, but to indicate the possibility of reducing it through the exchange of information with the social environment.

MAN AS A SUBJECT OF MORAL NORMS

Dietrich von Hildebrand pointed out that man is a conscious person, endowed with his own *self* cohesive within himself, free, and *possessing himself* (Hildebrand, 2012, p. 39). This means that he is also the subject of moral norms, which he accepts and realizes through his actions (Bocheński, 1993, p. 29). Moral norms, on the other hand, are a response to certain unwritten (as opposed to legal norms), yet enforceable (social) *moral reasons*. The latter result from ethical paradigms adopted in a specific social environment. They can therefore be understood as certain directives for action, orders to behave in a certain way or to refrain from certain actions by persons obliged to do so (Machura, 2011, pp. 277-305).

With this definition of man, however, the question arises: what makes him act in accordance with moral norms?

Essentially, the answer to this question stems from five models of moral norms (Mariański, 2006):

- general (objectively capturing moral values),
- propagated (formally communicated by institutions, e.g., the state and the church, adapted to the current situation of society, a catalog of *general* norms),
- perceived (the image of the propagated model as understood by society),
- accepted (containing the content of the perceived model that is consistent with the views and needs of a specific person),
- implemented (internalized and expressed in the repeated behaviors of that specific person).

In other words, a person's surroundings, or their *social environment* dictate the norms according to which certain behaviors are expected of them. On the other hand, a people based on their knowledge and experience, chooses those norms that they perceive as most beneficial. This benefit is nothing more than a positively perceived image of the result of their specific action – something good for someone, which is the result of specific actions or a specific situation (Wielki słownik języka polskiego PAN). The perception of this gain or benefit (Słownik języka polskiego PWN) in this case may also take the form of certain predictions – *what will happen if...?*

Therefore, if the anticipated outcome of an action based on a specific moral principle is more beneficial than the analogous outcome of choosing another norm, a person will decide to base their actions on the former. This is because human life^[1], with all its qualities, such as development and the pursuit of perfection, has the highest value (Supiński, 1782, pp. 104-216). Without going into deeper philosophical deliberations, it should simply be pointed out that humans perceive those norms as beneficial which ensure this *development in life*. The hypothesis that humans protect their existence not only physically but also intellectually is confirmed by the fact that human life (also understood in its immaterial dimension) has been safeguarded in all known social contracts^[2].

In response to the question posed earlier, it can be said that people act under social pressure, within the systems established by society. However, they always direct their actions towards continuous development (as they perceive it). The pressure of the social environment is most evident in the universalization of moral norms, which leads directly to the creation of a system dedicated to them. The latter can be understood on three levels (Budzyńska, 2012, pp. 11-31):

- institutional (norms are propagated by institutions such as the state, the church, or the family in socialization processes),
- awareness (norms are declared by the so-called *general public*),
- implementation (norms are applied by the so-called *general public*).

The above typology indicates systemic proposals concerning moral norms directed by institutions that organize collective life and so-called reference groups, but their implementation at the community level must first be *declared* by that community. In this sense, it isn't institutions but the social environment that creates pressure on people to act in accordance with these principles.

MAN AS AN ELEMENT OF THE LEGAL SYSTEM

The simplest definition of a norm is a statement formulated in a given language to express a demand that a person or persons behave in a certain way (Ziemiński, 1972, p. 35). The moral paradigm, on the other hand, is based on the assumption that the applicable law is a vehicle for specific values encoded in the content of legal provisions. This results in an obligation to respect the values contained in the law. At the level of the moral system, the law doesn't so much create values as operationalize them, establishing binding patterns of behavior that serve to protect certain values (goods) or their realization. From this perspective, the law itself can be understood as a legal system – socially constituted and guaranteeing the validity of legal norms that protect moral values. In a democratic state, as a rule, the system of values respected by the legislator is identical to the culturally established, and therefore relatively stable, system of values respected by the general public or its dominant part (Peszkowski, 2020, p. 169-171). However, it's the legislator who assesses

and assigns rank to the individual norms contained in the law. The supreme norms of the legal system express the *highest values* i.e., those that constitute the legal system and the so-called *common good*.

On the other hand, norms at lower levels of the legal system protect and serve to implement values derived from higher-level norms (Kamiński, 2017, p. 61-62). Thus, it happens that the public (common) interest remains in conceptual opposition to the particular interest (Peszowski, 2020, p. 173-175). Nevertheless, the Supreme Court, for example, stated: *In a state governed by the rule of law, there is no place for a mechanically and rigidly understood principle of the supremacy of the general interest over the individual interest. (...) This means that in each case, the acting authority has a duty to indicate what general (public) interest is at stake and to prove that it is so important and significant that it absolutely requires the restriction of individual citizens' rights* (Supreme Court judgment of November 18, 1993, ref. no. 3 ARN 49/93).

MAN AS A MEMBER OF A RISK SOCIETY

Among the most well-known ethical systems are: ancient ideologies (e.g., Stoicism, hedonism, cynicism, or Socratic ethical intellectualism), Christian social teachings (Orthodox, Protestant, and Catholic), utilitarianism, existentialism, and religious ethics (Jewish, Islamic, Hindu, Buddhist, or Confucian). In addition to these, there are hundreds or thousands of lesser-known and less popular ethical doctrines and ideologies. This multiplicity and ambiguity has meant that postmodernity, expressed by the lack of a definition of value as such, is characterized primarily by one phenomenon: ubiquitous risk (Peret-Drażewska, 2021, pp. 7-17). One gets the impression that contemporary reality is suspended, as it were, in an axiological vacuum, based on an instant culture that refers to the necessity of living in immediacy (Melosik, 2012, pp. 32-49). This is related to the development of mass media and the availability of many forms of entertainment. Moral chaos contributes to: a crisis of truth (post-truth, quasi-truth, lies presented as truth), moral relativism (ethical values and moral norms take on a relative and subjective dimension), ethical nihilism (rejection of commonly accepted norms,

principles, social, religious, aesthetic, ethical, and national values), demoralization (decline of morality, moral laxity, lack of discipline and order), depravity (turning to immoral and antisocial behavior, which becomes a source of dysfunction and pathology in various communities and social groups), total freedom (self-will, unrestricted by any imperative such as discipline, obedience, conscientiousness, or obedience) (Tchorzewski, 2020, p. 164).

Émile Durkheim pointed out that when the old social structure is destabilized and a new one is in the process of formation, it becomes unclear what is possible and what demands and expectations are justified. The confused public no longer knows the boundaries that cannot be crossed (Durkheim, 2006, p. 321). This leads directly to anomie, which Piotr Sztompka described as a state in which the normative system loses its coherence and turns into chaos, and disoriented people lose their sense of what is good and what is bad, what is allowed and what is forbidden. He called this state the disorganization of normative culture (Sztompka, 2005, p. 333). Ewa Budzyńska also emphasized that in a state of anomie, nothing can stop the collapse of the axiological system aimed at the so-called *common good* because it is overtaken by the unlimited freedom of people to satisfy their individual needs, even at the expense of disregarding the needs of others (Budzyńska, 2012).

Contemporary social theories and ideologies offer answers to the question of how people function in a society burdened with the above-mentioned problems. One of the most well-known paradigms was presented by Ulrich Beck. He described the so-called risk society. It's a society in which knowledge about risk takes on key political significance. More and more of life's activities are focused on absorbing uncertainty, calculating risk, reducing threats, protecting against them, etc.

Security with widespread suspicion and distrust, becomes a state on which all human endeavors focus (Beck, 2002). A fundamental principle of postmodernism is also the belief that all reality is a social construct, that truth and reality have no permanent and objective content – in fact, they simply don't exist (Peeters, 2009). The people of late modernity are no longer obedient to the command to defend their own beliefs and spiritual values, and find no other object of passion than maintaining their standard of living. If they defend an ideal other than an economic one, they are considered fanatics (Delson, 2003, p. 48).

KNOWLEDGE AND INFORMATION AS MORAL CATEGORIES

Knowledge is a current and subjective state of a human being. It consists of information that is in their possession. Knowledge is created by the inter-connections between the information possessed by a human being. It can be divided into several categories:

- information about the source of information (the person, individual, animal, or object that provided it),
- information about the circumstances accompanying the provision of information, which may influence the perception of its recipient,
- information about the subject to which it relates,
- information about the information transmitter (carrier, medium, e.g., a person's voice, their handwriting, and in the case of a dog, e.g., the way it barks) and about possible distortions resulting from its use by the source of information,
- information about the recipient's attitude towards the source (e.g., lack of sympathy, emotional distance, power dependence, or kinship).

It should be borne in mind that information is also based on knowledge that the recipient already possesses. In other words, knowledge influences the reception of information and the form it takes. Information is therefore a subjective value for the recipient, who, based on their knowledge, assigns values to information that are unique to them.

Thomas H. Davenport and Laurence Prusak argued that knowledge derives from reasoning formulated in thought processes based on facts, experiences, and context (Davenport, Prusak, 2000, p. 5). It's therefore the result of a subjective analysis of indisputable facts, but carried out through the prism of time, place, a specific person, or the subject to which it relates. Undisputable facts are specific states of affairs whose axiological basis is truth. Their analysis is subjective because it is based on the experiences (emotional experiences and imaginings) of the person undertaking it.

Information gives meaning and value to a message. Moreover, it can only be assimilated by a recipient who doesn't have to perform additional operations

for this purpose. Their perceptual abilities depend on their current mental and physical condition, skills and knowledge (in other words, motivation). The value of information is also determined by its subjective usefulness and relevance to the recipient (Babik, 2014, p. 29).

KNOWLEDGE AND INFORMATION AS SUBJECTS OF LAW

The right to information is enshrined in numerous international, the European Union, and national legal regulations. The sources of the right to information can be found in the Universal Declaration of Human Rights, adopted on December 10, 1948, during the Third Session of the UN General Assembly. This document clearly distinguishes between the right to seek and receive information (passive right to information) and the right to disseminate information (active right to information).

The European Court of Human Rights also derives the right to information from the right to freedom of expression and the protection of privacy. The right to information is provided for in Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms. According to this provision, everyone has the right to freedom of expression, and this right includes the freedom to hold opinions and to receive and impart information and ideas without interference from public authorities and regardless of national borders. The right to information is also regulated by the Charter of Fundamental Rights of the European Union.

In Poland, the right to information is enshrined in Article 54 of the Constitution of the Republic of Poland, which guarantees freedom of expression and the right to obtain and disseminate information. Under Polish law, this right is understood as both an intangible private and public good (in education, culture, science, technology, etc.). The basic information necessary for citizens and economic entities to exercise their civil rights and obligations and to conduct social and economic activities also includes political, social, and economic information. In this way, its functions mean that it can be treated as a free and public good (Kurek, 2010, pp. 85-87).

On the other hand, according to the results of research on the Internet information space conducted by Grzegorz Janusz, the right to knowledge most often refers to two dimensions:

- certain segments of society (e.g., knowledge about health and safety or about citizens' rights),
- the right to learn and teach.

He points out that this right is rarely applied to research results and, in general, to the possibility of conducting research in certain areas, especially if it's to be conducted by persons who haven't completed relevant studies in a given field (Janusz, 2016, pp. 87-89).

The right of citizens to express their views, as indicated in Article 54 of the Polish Constitution, is referred to in Article 73, which links it to freedom in the spheres of artistic creation, scientific research and the publication of their results, freedom of teaching and the enjoyment of cultural goods.

The European Convention for the Protection of Human Rights and Fundamental Freedoms doesn't refer to the issue of freedom of research, although Article 10 provides for the human right to freedom of expression in public. The right to education itself isn't specified in the Convention, but only in Article 2 of Protocol 1 to the Convention of March 20, 1952. It's also difficult to find regulations in the area of the right to knowledge in European Union law. Article 165 of the Treaty on the Functioning of the European Union refers only to education (Janusz, 2016, p. 94).

HUMAN RIGHTS TO KNOWLEDGE AND INFORMATION IN A RISK SOCIETY

In risk society theory, information is understood as an intangible asset which, if transferred, can contribute to reducing people's perceived uncertainty (Szpor, 2008, p. 8). The legal definition, which treats information as not only a public but also a private good, indirectly implies a *market* understanding of it – as an object of exchange. In the modern economy, alongside the classic factors of production (labor, land, and capital), it's sometimes treated

as a *fourth factor*. Information can be a commodity, i.e., the subject of a transaction and transfer of ownership (temporary use rights) from one entity to another. The transfer of information involves separating it from one's own knowledge base. This procedure is accompanied by a cost incurred by its owner. The recipient expects an increase in benefits as a result of obtaining the information. This benefit also determines the value and price of the information (Kurek, 2010, p. 86).

Information is a factor that reduces ignorance, enabling people to better understand the reality around them and act more effectively in the world (Górzyńska, 1999, p. 86). According to Niklas Luhmann, the main goal of modern humans is to reduce risk by eliminating diversity (Luhmann, 1990). This often means that communities refer to unquestioned *tacitly assumed* knowledge resulting from everyday interactions and experiences (Guzik, 2018, p. 145). It isn't supported by facts in the scientific sense, but by assumptions accepted by the *silent majority*, e.g., that a particular painted image is a work of art, which is then validated by symbolic elites. People can accept or reject this *knowledge* by assigning value to it. By choosing the latter option, they condemn themselves to *ignorance*, which causes their own inner anxiety. Critical thinking, on the other hand, can become the basis for their independent search, which is the only path to intellectual development. Only a person who rejects fear through a sense of *ignorance* can undertake this search.

Human consciousness is inextricably linked to the surrounding world, or rather (according to postmodern theories) to its emanations, which allow for subjective experience of reality. In the post-truth era, the latter should be understood as the perception of events and phenomena, their interpretation, and the projection of responses to them and the actions taken (resulting from these projections). These processes take place in a kind of inner world of the human being. Following Hildebrand, it can be said that people function in a triadic system: cognition – truth – freedom (Hildebrand, 2012, p. 39). They transform processed information into theses and assume that this will allow them to feel a semblance of stability. However, this process is voluntary and results from human subjectivity (Muszyński, 2014).

CONCLUSIONS

The market nature of the right to information and the right to knowledge means that not only do they become commodities, but people can also be *objectified*. This phenomenon occurs when someone tries to exploit them by limiting their rights. In the theory of the risk society, information is a good (and therefore represents a certain subjective value) that reduces uncertainty and expands the area of human security. Only the comfort achieved through its acquisition enables people to develop by taking intentional actions.

According to Dietrich von Hildebrand, human beings differ from other living beings known to us in that it is only in spiritual communion with other people that they find fulfillment of their essential inclinations (Hildebrand, 2012, p. 40). This contact with other people is most deeply expressed in dialogue, which is a mutual exchange of thoughts between at least two people. In dialogue, the roles of sender and receiver are interchangeable. This process takes place with full respect for the right of its participants to subjectivity (to their own views), so that they can get to know and understand each other, and thus become closer (Śnieżyński, 2001, p. 9). The freedom expressed in dialogue, consistent with knowledge and truth, is also what constitutes the inalienable right to freedom of thought and, consequently, freedom of speech.

It's through dialogue that people discover the properties of moral laws that eliminate the sense of uncertainty and hostility that is omnipresent in contemporary society. In this context, it seems necessary to apply axiological values to statutory laws. However, this task remains in the hands of the human community represented by institutions.

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ENDNOTES

- [1] Leszek Kołakowski, an agnostic in *Śmierć jako własność prywatna* (Znak, Kraków 2021, p. 121), claimed that we equate human life with good, and thus consider death to be evil. *This isn't a theory, but a peculiarity of life itself, which wants to continue and doesn't ask why*.
- [2] In: Barbara Anna Jelonek, *Idea umowy społecznej*, *Acta Erasmiana* 2014 vol. 6: According to Aristotle, society is capable of providing people with what they need for their earthly life. What is more, the happiness of citizens is the goal of the state (p. 22). Samuel von Pufendorf, on the other hand, believed that humans have two natural tendencies: the instinct for self-preservation and the instinct for social life. He argued that natural law requires humans to protect their lives and property above all else. Furthermore, it obliges them to act in the interests of peaceful coexistence (p. 27).